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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,556	12/21/2000	Stefan Schroder	P00.1920	3383

7590

02/26/2004

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EXAMINER

PATEL, ASHOKKUMAR B

ART UNIT

PAPER NUMBER

2154

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/720,556

**Applicant(s)**

SCHRODER, STEFAN

**Examiner**

Ashok B. Patel

**Art Unit**

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

**DETAILED ACTION**

1. Application Number 09/720, 556 was filed on 12/21/2000. Claims 1-5 are subject to examination.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Timm et al. (hereinafter Timm)(US 6, 055, 268).

**Referring to claims 1, 2 and 3,**

The reference teaches:

A method transmitting information in a subscriber line area with a subscriber line network, comprising the steps of:

transmitting information via said subscriber line network according to an xDSL method;  
and (col.5, lines 48-67 and col.6, lines 1-39).

supplying control data to an interface provided between an application level and a physical transmission with which an xDSL link can be dynamically reconfigured by an evaluation of protocols. The reference teaches supplying control data to an interface between an application level and physical transmission with which an xDSL link can be

dynamically reconfigured (Fig. 7a and col. 22, lines 18-67, col. 23. lines 1-57). The reference also teaches the dynamic reconfiguration taking place by evaluation of protocols in xDSL method as the reference uses the point-to-point (PPP) link control protocol for exchanging line connection management messages. (col.7, lines 28-31). The reference also teaches the DSP (digital signal processor) software (in the modem 100 of central office (arranging the interface in a local exchange), which includes embedded operations control and framing in the data link layer. Also, the reference teaches the network layer transporting protocols such as PPP. (col. 9, lines 54-64, Fig. 1e). The reference also teaches that the rate negotiation (reconfiguration xDSL link) signal data (taking control data from signaling) are encapsulated in the Data link Control Protocol such as the information field of the PPP data link layer frame structure. (Fig. 7b and col.26, lines 27-58).

**Referring to claim 5,**

As stated above, the use of PPP to provide a control data signal for reconfiguration of xDSL. The reference also teaches that the applications such as Internet browsers interact with the transport protocols such as PPP. (Fig. 1e, element 189 (TCP/IP/IPX/PPP) col.9, lines 60-64). Thereby, the reference teaches of taking control data from the Internet protocol.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 102(e) as being anticipated by Timm et al. (hereinafter Timm)(US 6, 055, 268) in view of the article titled " Dynamic Resource Allocation in ATM Networks " by Hiroshi Saito (herein after Saito) (May 1997).

**Referring to claim 4,**

Although, the reference Timm teaches to dynamically reconfiguring XDSL link by an evaluation of protocols as stated above, it fails to explicitly teach taking control data from RM cells of ABR traffic. The reference Saito teaches the RM cells of ABR traffic providing the control data. (page 147, paragraph 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention was made to modify Timm for the evaluation of protocols that includes Saito RM cells of ABR traffic such that the available bandwidth is allocated to a series of cells. Resource allocation is the key to achieving a certain QoS level objective for a connection requesting a certain amount of bandwidth as taught by Saito.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (703) 305-2655. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2154

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp  
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